S.B.CIVIL WRIT PETITION No.34/2002
M/s SHIVA OIL INDUSTRIES V/s CHAIRMAN-CUM-MANAGING DIRECTOR & Ors.

5.2.2007

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri Alok Sharma for the petitioner.
Shri R.K. Agarwal for the respondents.

The petitioner in this writ petition has challenged has provisional assessment dated 24.12.2001 and VCR dated 18.12.2001. By the impugned order, the respondents have raised the demand of Rs.10.8 lacs from the petitioner on the premises that on inspection which was conducted by the vigilance team of the respondents, the body and seal of the electricity meter was found tempered with and therefore they concluded that the petitioner was indulging in the theft of electricity which was an offence punishable u/s 39/44 of the Indian Electricity Act, 1910 and was void of clause 294 ©, (D), (O), (K) of GCO.

Learned counsel for the petitioner has argued that there was no material with the respondents to arrive at the conclusion that petitioner was indulging in the theft of electricity and a false case has been concocted against the petitioner

for extraneous reasons and the demand has wrongly been raised. No tempering or pilferage was discovered when the entire team of the respondents earlier conducted the inspection on 14.12.2001. There was no reason to arrive at a diametrically opposite conclusion within 24 hours when third inspection was conducted on 15.12.2001

The respondents have contested the matter and argued that the petitioner originally field civil suit along with temporary injunction application on the same subject matter and when he failed to get any relief therein, he withdrew the civil suit on 15.2.2003 without any liberty to initiate fresh proceedings. The grievance of the petitioner has been remedied by the respondents themselves on the basis of their representation addressed to the Chairman and Managing Director of Jaipur DISCOM. The original demand of Rs.10.8 lacs has since been substantially reduced to just Rs.1,72,353.42.

Having heard learned counsel for the parties, I find that the petition is full of complex nature of disputed questions of fact. The original demand, as it is, has been substantially reduced. In case

any other grievance of the petitioner survive, he can approach the respondents by making appropriate application to the respondents in their settlement scheme with the deposit of requisite fee as per prescribed procedure. In case, any such application is made within 45 days, the respondents should proceed to consider and dispose of the same as expeditiously as possible. Meanwhile, till they decide such application, they would not proceed to disconnect the electricity connection of the petitioner.

With these directions, this writ petition is disposed of.

(Mohammad Rafiq),J.

Chauhan/